App. F. IX-4

1940

193 .

Previous References (Legis)

File No. 2-40

Serial Nos. 95496

Later References.

(6)

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. two only

Part B for June 1941.

SUBJECT.

Amendments to Defence of India Rules 97 and 98.

WD 0573—GPB—22,500—12-9-39

C. G. Vajravelu
6/7/41

Amendments to Defence of India Rules. 1898

General and Revenue Secretariat | File No. | of 194 . | [App. F.-III-2

Serial No.

From

The Secretary to the Hon'ble the Resident

7. 3-40/15 dated 30th May 1941

forwards amendments to Defence of India Rules.

The amendments are to 97 and 98, ~~XXXX~~ A new rule 5-1 B has been added and 114 A has been replaced These amendments will, as usual be republished.

Submitted with a draft Notification for orders.

Sm
2/6/41

For approval
BKR
3.6.41

Law Secy)

Hm
3/6/41

JSM BKR
3.6.41

Issued notification P. 250 Legis 2-40. 96. A
5. 6. 41

NOTE—Contn. Sheet

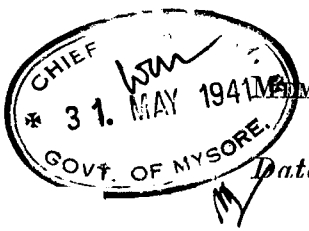
Legi 2-40-95— 6898 940

FROM

THE SECRETARY
TO THE HON'BLE THE RESIDENT IN MYSORE.

To

The Chief Secretary to the Government of
His Highness the Maharaja of Mysore,
Bangalore.



Pol 2966

MEMORANDUM No. F.3-40/W.

Dated Bangalore, the 30th May *1941*.

The Defence of India Rules.

Attention is invited to notifications by the Government of India, Defence Co-ordination Department, Nos.795-OR/41, 796-OR/41 and 797-OR/41 dated the 3rd May 1941, copies of which are enclosed.

for SECRETARY TO THE RESIDENT.

THE HON'BLE THE RESIDENT IN MYSORE.

NOTIFICATION.

No. F. 3-40/W, dated Bangalore, the 26th May 1941.

The following notifications of the Government of India, Defence Co-ordination Department, Nos. 795-OR/41, 796-OR/41 and 797-OR/41, dated the 3rd May 1941, are republished.

P. M. RAMAN NAYAR,
for *Secretary to the Resident.*

GOVERNMENT OF INDIA.

DEFENCE CO-ORDINATION DEPARTMENT.

NOTIFICATIONS.

New Delhi, the 3rd May 1941.

No. 795-OR/41.—In exercise of the powers conferred by section 2 of the Defence of India Act, 1939 (XXXV of 1939), the Central Government is pleased to direct that the following further amendments shall be made in the Defence of India Rules, namely :—

In the said Rules—

I. After clause (*e*) of rule 97, the following clause shall be inserted, namely : —

"(*f*) as respects any business carried on in enemy territory, any individual or body of persons (whether corporate or incorporate) carrying on that business, or"

II. After sub-rule (*3*) of rule 98, the following sub-rule shall be inserted, namely :—

"(*4*) In any proceedings for an offence of trading with the enemy, the fact that any document has been despatched addressed to a person in enemy territory shall, unless the contrary is proved, be evidence, as against any person who was a party to the despatch of the document, that the person to whom the document was despatched was an enemy."

No. 796-OR/41.—In exercise of the powers conferred by section 2 of the Defence of India Act, 1939 (XXXV of 1939), the Central Government is pleased to direct that the following further amendment shall be made in the Defence of India Rules, namely :—

After rule 51C of the said Rules, the following rule shall be inserted, namely :—

"*Security of buildings.*—51D. (*1*) The Central Government or the Provincial Government may by order impose in relation to any buildings or class of buildings such requirements as to layout materials and construction as that Government may consider necessary for the purpose of rendering the buildings less vulnerable to air raids or of affording better protection to persons using or resorting to them.

(*2*) An order made under sub-rule (*1*) shall apply only to buildings in such area as may be specified in the order, and which are erected, extended or structurally altered after the coming into operation of the order.

(*3*) If any person contravenes the provisions of this rule, he shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both."

No. 797-OR/41.—In exercise of the powers conferred by section 2 of the Defence of India Act, 1939 (XXXV of 1939), the Central Government is pleased to direct that the following further amendment shall be made in the Defence of India Rules, namely :—

For rule 114A of the said Rules, the following rule shall be substituted, namely :—

"114A.—(1) In this rule "enemy" means any person or body of persons who is for the time being an enemy as defined in rule 97.

Power to control and wind up certain businesses.

(2) Where any business is being carried on in British India by, or on behalf of or under the direction of, persons all or any of whom are enemies or enemy subjects or appear to the Central Government to be associated with enemies, the Central Government may, if it thinks it expedient so to do, make—

(a) an order (hereafter in this rule referred to as a "restriction order") prohibiting the carrying on the business either absolutely or except for such purposes and subject to such conditions as may be specified in the order, or

(b) an order (hereafter in this rule referred to as a "winding up order") requiring the business to be wound up;

and the making of a restriction order as respects any business shall not prejudice the power of the Central Government, if it thinks it expedient so to do, at any subsequent date to make a winding up order as respects that business.

(3) Where an order under sub-rule (2) is made as respects any business, the Central Government may, by that or a subsequent order, appoint a Supervisor to control and supervise the carrying out of the order, and, in the case of a winding up order, to conduct the winding up of the business and may confer on the Supervisor any such powers in relation to the business as are exercisable by a liquidator in the voluntary winding up of a company in relation

to the company (including power in the name of the person carrying on the business or in his own name, and by deed or otherwise, to convey or transfer any property, and power to apply to the court to determine any question arising in the carrying out of the order), and may by the order confer on the Supervisor such other powers as the Central Government thinks necessary or convenient for the purpose of giving full effect to the order.

(4) Where a restriction order or a winding up order is made as respects any business, the distribution of any assets of the business which are distributed while the order is in force shall be subject to the same rules as to preferential payments as are applicable to the distribution of the assets of a company which is being wound up, and the said assets of the business shall, so far as they are available for discharging unsecured debts, be applied in discharging unsecured debts due to creditors of the business who are not enemies in priority to unsecured debts due to any other creditors, and any balance, after providing for the discharge of all liabilities of the business, shall be distributed among the persons interested in the business in such manner as the Central Government may direct:

Provided that the provisions of this sub-rule shall, in their application to the distribution of any money or other property which would, in accordance with those provisions, fall to be paid or transferred to an enemy, whether as a creditor or otherwise, have effect subject to the provisions of rule 114 and of any order made under that rule.

(5) Where any business for which a Supervisor has been appointed under this rule has assets in enemy territory, the Supervisor shall, if in his opinion it is practicable so to do, cause an estimate to be prepared—

(a) of the value of those assets ;

(b) of the amount of any liabilities of the business to creditors, whether secured or unsecured, who are enemies ;

(c) of the amount of the claims of persons who are enemies to participate, otherwise than as creditors of the business, in any distribution of assets of the business made while an order under sub-rule (2) is in force as respects the business

and, where such an estimate is made, the said liabilities and claims shall, for the purposes of this rule, be deemed to have been satisfied out of the said assets of the business in enemy territory, or to have been satisfied thereout so far as those assets will go, and only the balance (if any) shall rank for satisfaction out of the other assets of the business.

(6) Where an estimate has been prepared under sub-rule (5), a certificate of the Supervisor as to the value or amount of any assets, claims or liabilities to which the estimate relates shall be conclusive for the purpose of determining the amount of the assets of the business available for discharging the other liabilities of the business and for distribution amongst other persons claiming to be interested in the business:

Provided that nothing in this sub-rule shall affect the rights of creditors of, and other persons interested in, the business against the assets of the business in enemy territory.

(7) The Central Government may, on an application made by a Supervisor appointed under this rule, after considering the application and any objections which may be made by any person who appears to the Central Government to be interested, by order grant the Supervisor a release, and an order of the Central Government under this sub-rule shall discharge the Supervisor from all liability in respect of any act done or default made by him in the exercise and performance of his powers and duties as Supervisor, but any such order may be revoked by the Central Government on proof that it was obtained by fraud or by suppression or concealment of any material fact.

(8) Where an order under sub-rule (2) has been made as respects a business carried on by any individuals, or by a company, no insolvency petition against the individuals, or petition for the winding up of the company, shall be presented, or resolution for the winding up of the company passed, or steps for the enforcement of the rights of any creditors of the individuals or company taken, without the consent of the Central Government, but where the business is carried on by a company, the Central Government may present a petition for the winding up of the company by the court, and the making of an order under sub-rule (2) shall be a ground on which the company may be wound up by the court.

(9) Where an order is made under this rule appointing a Supervisor, for any business, any remuneration of, and any costs, charges and expenses incurred by, the Supervisor, and any other costs, charges and expenses incurred in connection with the control and supervision of the carrying out of the order, shall, to such amount as may be certified by the Central Government, be defrayed out of the assets of the business, and as from the date of the certificate, be charged on those assets in priority to any other charges thereon.

(10) If any person contravenes the provisions of any order made under sub-rule (2), he shall be punishable with imprisonment for a term which may extend to five years or with fine or both."

A. DEC. WILLIAMS,
Secretary to the Government of India.

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124 (1)—30-5-1941—20—RPB.

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE.

No. P 6250
Leg's 2-40-96
Sec 1.

General and Revenue Secretariat,

Dated Bangalore, 5th June 1941.

NOTIFICATION.

The following notifications of the Government of India, Defence Co-ordination Department, are hereby republished for general information.

By Order,

HKR

Secretary to Government,
Law Department.

To--The Compiler, Mysore Gazette for publication in Part IV and sending 100 spare copies to this office very early.

HKR/9.

No. P 6250 Legis 2-40-96 & 5.6.41
Sec 1

G. R. S. App. F. G. 3.

GENERAL AND REVENUE SECRETARIAT

(*Continuation sheet draft form.*)

Notification.

The following notification of the Government of India, Defence Co-ordination Department are hereby republished for general information

By order,

Secretary to Government
Law Department.

BKR
3.6.41

To

The Compiler, Bombay Gazette for publication in part IV and sending 100 Spare Copies to this Office very early.